

REMARKS

The Applicants do not believe that examination of the response contained herein will result in the introduction of new matter into the present application for invention. Therefore, the Applicant, respectfully, requests that this response be entered in and that the claims to the present application, kindly, be reconsidered.

The Final Office Action dated June 15, 2005 has been received and considered by the Applicants. Claims 1-20 are pending in the present application for invention. Claims 1-20 are rejected by the June 15, 2005 Final Office Action.

The June 15, 2005 Final Office Action contains a provisional obviousness-type double patenting rejection to Claims 1, 9 and 12. The Final Office Action rejects Claims 1, 9 and 12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 15 of U. S. Patent No. 6,778,826.

The Final Office Action provisionally rejects Claims 1, 9 and 12 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 12 of U. S. Patent Application No. 09/833,471. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other.

The Applicants, respectfully, request that the rejection of Claims 1, 9 and 12 under the judicially created doctrine of obviousness-type double patenting and provisional double patenting be rescinded for the following reason. U.S. Patent No. 6,778,826 and U. S. Patent Application No. 09/833,471 are commonly owned with the present application for invention and were pending upon filing of the present application for invention. Therefore, the claims to U.S. Patent No. 6,778,826 and U. S. Patent Application No. 09/833,471 can be used as a basis for a double patenting rejection, but these claims cannot be treated as prior art. In making the aforementioned obvious-type double patenting rejection, the Examiner inherently states that the rejected claims to the present invention differ from that of that of U.S. Patent No. 6,778,826 and U. S. Patent Application No. 09/833,471 because, simply put, a same-invention, double patenting rejection has not been made.

The Applicants, respectfully, point out that U.S. Patent No. 6,778,826 and U. S. Patent Application No. 09/833,471 do not provide patent protection for interfacing a portable communications device with terminals and connecting the portable communications with the at least one server via a second wireless network that is independent of the first network; or

receiving wireless transmissions at the portable communication device from other sources than the second wireless network.

The Final Office Action alleges that the claims to the present invention are obvious in view of the claims to U.S. Patent No. 6,778,826 and U. S. Patent Application No. 09/833,471, however, the Examiner has cited no prior art, whatsoever, showing that the differences between the rejected claims of the present invention and the claims to U.S. Patent No. 6,778,826 and U. S. Patent Application No. 09/833,471 amount to an obvious modification of the claims to U.S. Patent No. 6,778,826 and U. S. Patent Application No. 09/833,471. Without a prior art recitation to substantiate an obvious-type double patenting rejection, there is no factual basis upon which the assertion of obviousness can be measured. Therefore, this double patenting rejection cannot stand. The foregoing analysis is clearly the rule regarding obvious type double patenting rejections and is a synopsis from a decision before the Board of Patent Appeals And Interferences, Appeal No. 1998-0425, *Ex parte Frank L. Schmit, Lloyd Ewing and David T. Redmon, Application No. 08/272,527*, pages 4-5.

The Final Office Action rejects Claims 1, 2 and 9 under the provisions of 35 U.S.C. §102(a) as being anticipated by European Pub. No. EP 0 888 025 A2 by Amin (hereinafter referred to as Amin) for the reasons stated in the PCT International Search Report for International Application No. PCT/EPO1/04026. In the Examiner's Response to Arguments, the Examiner assert that Amin discloses a profile database that contains data representative of a characteristic behavior of an associated user. This assertion is based upon subscriber database profiles connected to a switch that retrieves the subscriber profile from the subscriber database associated with the service provider upon determination of the service provider. The Applicants respectfully do not concur with the assertion that a switch that retrieves the subscriber profile from the subscriber database associated with the service provider upon determination of the service provider can reasonably be viewed as anticipating a profile database that contains data representative of a characteristic behavior of an associated user. There is no characteristic behavior disclosed or suggested by Amin.

As stated in the MPEP §2131, a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Applicants, respectfully point out that the rejected claims define subject matter for networked communications comprising at least one server and a plurality of user stations each having a terminal that can receive information from the server via a first network. Additionally, the rejected claims define subject matter for storing a profile database containing data representing a characteristic behavior of an associated user terminal network address or addresses, the data being acquired automatically in response to an activity of the associated user and stored with the associated user network address in the profile database. The rejected claims still further define subject matter for the user station having a portable communications device coupled to the terminal and connectable to the server via a second network that is independent of the first network, wherein the coupling between the portable device with the terminal is by wireless transmission, and the portable communications device includes means for receiving wireless transmissions from the terminal are further configured to receive additional data transmitted wirelessly from other sources than said second network.

The Applicants would like to, respectfully, point out that the PCT International Search Report refers to the Abstract; col. 2, lines 34-39; and col. 3 lines 48-col. 4, line 31 of Amin.

The Abstract of Amin discusses a wireless communication system with a wireless switch that includes a partition table that associates a service provider to each wireless terminal. There is no disclosure, or suggestion, within Amin for the terminal of any user station coupled to a portable communications device that can connect to the server via a second network that is independent of the first network.

The Applicants further point out that col. 2 lines 34-39 of Amin simply states that upon receipt of a service request from a wireless terminal, the switch looks up the subscriber profile and provides telecommunication services for the subscriber. Amin does not disclose or suggest that the wireless terminal is in any way connected to a second network that is independent of the first network. Furthermore, Amin does not disclose or suggest a profile database containing data acquired automatically in response to an activity of the associated user and stored with the associated user network address in the profile database.

The Applicants further point out that col. 3, lines 48-col. 4, line 31 of Amin discusses that mobile stations 102, 104 can interface with mobile switching center. Amin does not disclose or suggest that either of mobile stations 102, 104 is in any way connected to a

second network that is independent of the first network. Simply put, mobile stations 102, 104 as taught by Amin can interface with mobile switching center, however, mobile stations 102, 104 can not communicate with each other, e.g. there is only a single network.

In view of the foregoing discussion, Amin does not anticipate the rejected claims. The Applicants respectfully point out that the PCT International Search Report is only a search report and it readily appears that PCT International Search Report was in error for citing Amin as a reference that anticipates the rejected claims. Therefore, this rejection is, respectfully, traversed.

The Final Office Action rejects Claims 1-5, 9, 11-16 and 20 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Intl. Pub. No. WO 99/33293 by Dennis (hereinafter referred to as Dennis) in view of European Pub. No. EP 0944 002 by Bunney et al. (hereinafter referred to as Bunney et al.). The Examiner's response to the Applicants' argument asserts that Dennis teaches that the wireless device is communicating via the second network, and the second network is different from the first. The Applicants, respectfully, point out that the rejected claims define subject matter for user station including a portable communications device coupled with the terminal and, wherein the coupling between the portable device with the terminal is by wireless transmission therefrom, and the portable communications device receives wireless transmissions from the terminal. Dennis does not teach a wireless coupling between the terminal and the portable device.

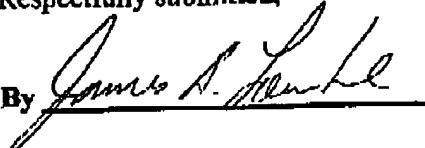
The rejection asserts that Dennis teaches a networked communications apparatus comprising at least one server and a plurality of user stations, wherein the user stations comprise terminals which can receive information from the at least one server by means of a connection via first network. The Applicants, respectfully, disagree. Dennis teaches a terminal 101 linked to a wireless network 103 through the internet. As the Examiner points out, page 8, lines 18-20 of Dennis states that the terminal could connect directly to the wireless network 103. The Applicants respectfully, point out that the foregoing does not reach all the elements of the rejected claims. The service control point of Dennis is equivalent to the server of the rejected claims. The wireless device 106 of Dennis is equivalent to the portable communications device of the rejected claims. There is no disclosure, or suggestion, within Dennis for any connection to exist between the wireless device 106 and the terminal 101. The Applicants, respectfully, submit that the rejected claims are clearly allowable over the combination of Dennis in view of Bunney et al.

The Final Office Action rejects Claims 6-8 and 10 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Dennis in view of Bunney et al., and further in view of U.S. Pub. No. 2002/01220612 in the name of Martin et al. (hereinafter referred to as Martin et al.). The Examiner admits that the combination of Dennis with Bunney, et al. does not disclose the subject matter of Claim 6 for a buffer arranged to receive and store said additional data transmitted wirelessly. The Examiner's position is that Martin et al. provide this missing element. As previously discussed, combination of Dennis with Bunney, et al. does not disclose a second network wherein a portable communications device provides an interface with the user terminal and the server. The buffer defined by Claim 6 receives and stores additional data transmitted wirelessly from other sources than said second network. Therefore, all the elements of rejected Claim 6 are not found by the combination made in the Final Office Action. Claims 7, 8 and 10 also define subject matter for a second network wherein the portable communications device provides an interface with the user terminal and the server. Therefore, this rejection is, respectfully, traversed.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

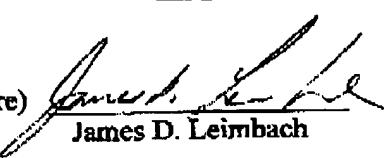
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